Jrw 150;

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 09/902,749

Filed: July 12, 2001

Confirmation No. 9603

In re Application of

Group Art Unit: 1661

Robert NOODELIJK

Examiner: Jane Hwu

For:

CHRYSANTHEMUM PLANT NAMED 'SUNNY ELITE REAGAN'

REPLY TO REQUIREMENT FOR INFORMATION UNDER 37 CFR 1.105

US Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, Virginia 22314

Sir:

Applicant replies to the Requirement for Information mailed December 19, 2005 as follows.

Information to the public from the assignee regarding availability of the plant and where to purchase same would not have taken place until after December 12, 2001, the date of registration of the PBR at the Dutch office. Although the denomination was published June 16, 2001, assignee would not provide information about the plant to a member of the public until the PBR registration date of December 12, 2001. This date, of course, is after the filing date of the instant application on July 12, 2001. The policy of the assignee not to reveal information about a cultivar identified in a PBR publication only by a breeder's reference number is a constant ongoing policy, one which has been mentioned in a number of cases in the USPTO.

Enclosed herewith are copies of relevant pages from the 2000 and 2001 catalogs of the assignee. The cultivar 'Sunny Elite Reagan' appears in the 2001 catalog, which was first distributed in November, 2000 as 'Reagan Sunny Elite'. There is no mention of the variety in the 2000 catalog. Thus, the distribution of the 2001 catalog occurred less than a year before the filing date of the instant application.

Serial No. 09/902,749

Applicant again points out that information regarding the variety is not made available by the assignee if only a breeders' reference is used to identify the plant in the PBR until after registration.

Regarding reproduction of the claimed plant variety, applicant points out that public access to the PBR records at the Dutch authority does not include the technical questionnaire which includes information on the mode of propagation and the breeding history. Such information also does not appear in the catalog. The Examiner is referred to the May 3, 2005 letter to Dr. Ying Fung of the assignee from the Secretary-General of the Dutch authority; see "Ad a" on page 1 of that letter.

An early allowance of the application is earnestly solicited.

Respectfully submitted,

TEPTOE & JOHNSON LLP

Date: February 21, 2006

Charles A. Wendel Registration No. 24,453

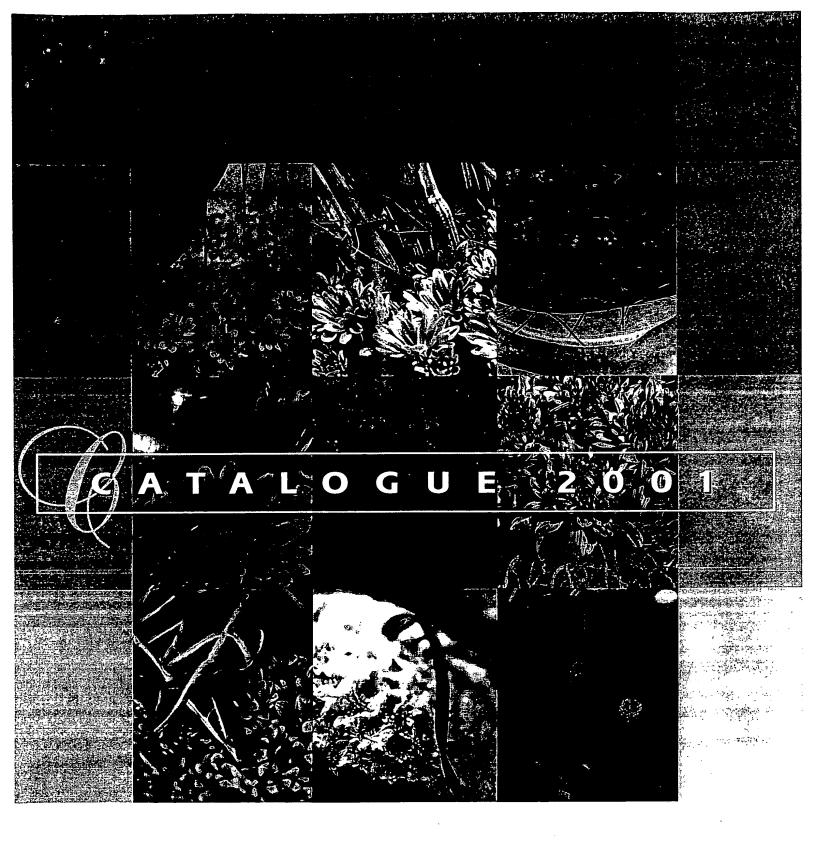
STEPTOE & JOHNSON LLP 1330 Connecticut Ave., N.W. Washington, DC 20036

Telephone: 202-429-3000

Enclosures: Pages from 2000 and 2001 CBA Catalogs

May 3, 2005 letter to Dr. Ying Fung

Old Attorney Docket No. CHRE:112 New Attorney Docket No. 28967.0112

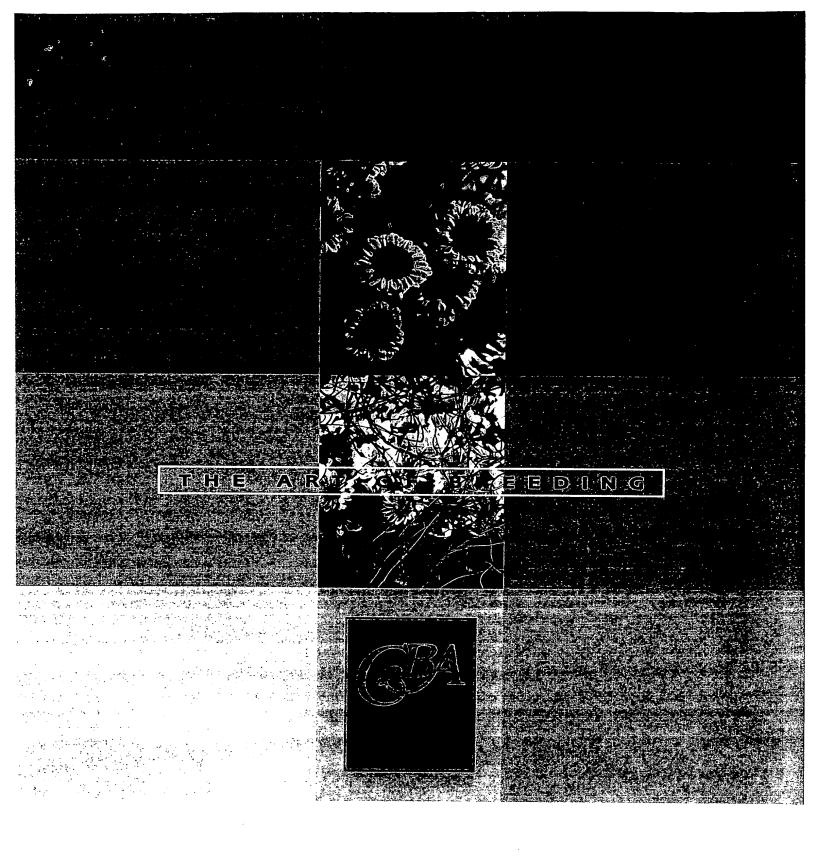




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S'PRAY CHRYSANTHEMUM

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-	REWINNER	8	WHITE		СТ	GREEN	50-36
DAISY	ORBIT!	7	WHITE			GREEN	06-36
	REAGAN ELITE WHITE	7.	WHITE			GREEN	01-52
	REAGAN MUNDO WHITE	7	WHITE		CT	GREEN	01-52
	REAGAN WHITE	7,5	WHITE			GREEN	01-52
ECORATIVE	REBONNET	6,5	WHITE	•		WHITE	50-36
	REVEAL	7	WHITE			WHITE/GREEN	01-52
	EW ATLAS	7,5	WHITE			GREEN-	50-38
PIDER	REFORM	8,5	WHITE		СТ	WHITE	01-52
YELLOW • CRE	AM			•			
NEMONE	REQUIRE	7	YELLOW			YELLOW	01-35
	RELINDA SUNNY	7,5	YELLOW		CT	GREEN	01-32
	REMCO YELLOW	7,5	YELLOW		CT	RED	50-32
	REGATTA	8	YELLOW			GREEN	01-32
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y a	VYKING	8	YELLOW	DARK		BROWN	01-36
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	VYRON	9	YELLOW	ORANGE	СТ	BROWN	01-52
SPOON	REPULSE YELLOW	8	YELLOW			GREEN	05-32
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	iew TITAN	7	PINK			GREEN	50-38
u.	REMCO APRICOT	7,5	APRICOT			ORANGE/RED	50-32
	REMCO LILAC	7,5	PINK	LIGHT		RED/PURPLE	50-32
DAISY	EW REDOCK	6,5	PINK			GREEN	01-52
	EW REDOCK IMPROVED	6,5	PINK	DARK		GREEN	01-52
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24	REAGAN ELITE	7	PINK			GREEN	01-52
<u>.</u>	REAGAN ELITE IMPROVED		PINK	DARK		GREEN	01-52
34	REAGAN ELITE SALMON	, 7	SALMON			GREEN	01-52
	REAGAN STATEMENT		PINK			GREEN	01-52
	REAGAN CHERRY	7,5	CHERRY			GREEN	01-52
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CBA n.v. P.O.Box 370

1430 AJ Aalsmeer, The Netherlands

Phone +31 297 347870

Fax +31 297 344612

Internet www.cba-nv.nl

E-mail cba@tref.nl

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CATARIE O CULE



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SPRAY CHRYSANTHEMUM

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DAISY		RECOTTA YELLOW	6.5	YELLOW		GREEN	01-35
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		LUCKY LION	6.5	YELLOW		GREEN	01-52
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		REAGAN GOLDEN	7.5	YELLOW	GOLDEN	GREEN' CONTROL OF	01-52
7 13	1	REAGAN LEMON	7.5	YELLOW	LEMON ***	GREEN	01-52
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		REAGAN SULPHUR	7.5	YELLOW	LIGHT	GREEN	01-52
		REAGAN SUNNY	7.5	YELLOW	DARK	GREEN	01-52
		REAGAN YELLOW	7.5	YELLOW		GREEN.	01-52
		REYELLOW	8	YELLOW	DARK	GREEN	01-52
		VYKING	8	YELLOW	DARK	BROWN	01-36
		VYSTAR IMPROVED	8.5	YELLOW	ORANGE .	GREEN	01-52
¥		REGOLTIME	9	YELLOW	DARK was the same and	GREEN	01-52
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SPOON		REGIRO	7	YELLOW		YELLOW/GOLDEN	01-35
		REPULSE YELLOW	8	YELLOW		GREEN	05-32
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/ CALCUME		REMCO APRICOT	7.5	APRICOT		ORANGE/RED	50-32
DAISY		REMCO LILAC	7.5	PINK	LIGHT	RED/PURPLE	50-32
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		REMERO	7,5	PINK/WHITE TIP	,	GREEN	01-52
;	1	REAGAN ERLENDIN	7.5	APRICOT	DARK 🎉	GREEN	01-52
-		REAGAN SPLENDID	7.5	PURPLE	LIGHT	GREEN	01-52
		REAGAN SPLENDID DARK	7.5	PURPLE	DARK	GREEN	01-52
<i>.</i>		REAGAN ROSY	7.5	ROSY		GREEN	01-52
	<u>i</u>	REAGAN ROSY DARK	7.5	ROSY	DARK	GREEN	01-52



THE ART OF BREEDING

CBA n.v. P.O.Box 370, 1430 AJ Aalsmeer, The Netherlands
Phone +31 297 347870, Fax +31 297 344612, Internet www.cba nv.nl, E-mail cba@tref.nl



BEZOEKADRES / VISITORS ADDRESS
Bennekomseweg 41, Ede
POSTADRES / POSTAL ADDRESS
Postbus 27, NL-6710 BA Ede

T +31 (0)318 - 822580 F +31 (0)318 - 822589 E raad.kwekersrecht@rkr.agro.nl www.kwekersrecht.nl RABOBANK
39.70.01.258
IBAN-NUMMER
NL49RABO0397001258
BIC-CODE
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CBA Research B.V. t.a.v. Mevr. Y. Fung Postbus 370 1430 AJ AALSMEER

ONTVANGEN 0 6 MEI 2005

Ede, 03-05-2005

Your Letter of Your reference

Our reference

: 2005062

Subject

: Breeding history

Dear Mrs. Fung.

Answering your question about the policy of the Board for Plant Breeders' Rights in the Netherlands concerning the access to the breeding history of varieties, I inform you as follows.

As far as information concerning varieties is concerned one should make a distinction between

- a. Information by the breeder in order to facilitate the examination of the application for PBR, mostly given in the technical questionnaire (TQ) attached to the application form;
- b. Data gained from the official examination in order to describe the variety.

Ad a

The breeder's information (which is not per se correct) is used to compare the candidate variety with the proper reference varieties. Prominent morphological characteristics serve that purpose, but also knowledge about the background of the candidate variety, also called "the breeding history", is important in that connection.

Data about the breeding history are required only for the purpose of an efficient examination and are strictly confidential. The TQ, including these data, is no part of the official register. The Board for Plant Breeders' Rights will not inform third parties about the breeding history without authorization of the applicant or his successor in title.

Important data concerning the breeding history are:
Is the candidate variety a mutant and, if so, of which variety?
In the case of synthetic or hybrid varieties: which components or inbred lines are involved and which is the formula?

Ad b

Data gained from the official examination are comprised in a variety description. Such descriptions do not contain the breeding history of the varieties concerned. The variety description is included in the official Dutch Variety Register. Since the register is open to the public, third parties can obtain descriptions of the registered varieties. However, through those descriptions they are not informed about the breeding histories.

I trust have informed you adequately.

K.A. Fikkert, Secretary-General

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